




State of Louisiana
Department of Health and Hospitals
Office of the Secretary

February 5, 2016

MEMORANDUM

TO: The Honorable John Bel Edwards, Governor, State of Louisiana
The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Jeff Landry, Attorney General, State of Louisiana
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffman, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary 

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Inpatient Hospital Services – Non-Rural, Non-State Hospitals - Reinstatement of Additional Payments for Hemophilia Blood Products.

The Department published a Notice of Intent on this proposed Rule in the December 20, 2015 issue of the *Louisiana Register* (Volume 41, Number 12). A public hearing was held on January 28, 2016 at which only Department of Health and Hospitals staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the March 20, 2016 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/RKA

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services - Non-Rural, Non-State Hospitals Reinstatement of Additional Payments for Hemophilia Blood Products (LAC 50:V.965)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.965 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state acute care hospitals to provide additional reimbursements to certain hospitals for the extraordinary costs incurred in the purchase of blood products for Medicaid recipients who have been diagnosed with hemophilia (*Louisiana Register*, Volume 34, Number 10) and other rare bleeding disorders (*Louisiana Register*, Volume 35, Number 4).

As a result of a budget shortfall in state fiscal year 2015, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient

hospital services rendered by non-rural, non-state hospitals to eliminate the additional reimbursements for hemophilia blood products purchased by hospitals (*Louisiana Register*, Volume 41, Number 3).

Act 16 of the 2015 Regular Session of the Louisiana Legislature allocated funding to the department to reinstate the additional reimbursements for hemophilia related blood products. The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals to reinstate reimbursements for costs incurred in the purchase of blood products for certain Medicaid recipients diagnosed with, and receiving inpatient treatment for, hemophilia (*Louisiana Register*, Volume 41, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 1, 2015 Emergency Rule.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE Part V. Hospital Services Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§965. Hemophilia Blood Products

A. Effective for dates of service on or after July 1, 2015, the Department of Health and Hospitals shall provide additional reimbursements to certain non-rural, non-state acute care

hospitals for the extraordinary costs incurred in purchasing blood products for certain Medicaid recipients diagnosed with, and receiving inpatient treatment for hemophilia.

B. - B.1. ...

2. have provided clotting factors to a Medicaid recipient who:

a. has been diagnosed with hemophilia or other rare bleeding disorders for which the use of one or more clotting factors is Food and Drug Administration (FDA) approved; and

b. has been hospitalized at the qualifying hospital for a period exceeding six days; and

3. - 3.a. ...

C. Reimbursement. Hospitals who meet the qualifications in §965.B may receive reimbursement for their actual costs that exceed \$50,000 if the hospital submits a request for reimbursement to the Medicaid Program within 180 days of the patient's discharge from the hospital.

1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2176 (October 2008), amended by the Department of

Health and Hospitals, Bureau of Health Services Financing, LR 35:674 (April 2009), LR 42:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring that Medicaid recipients have access to medically necessary hospital services and medications.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by ensuring that Medicaid recipients have access to medically necessary hospital services and medications.

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of

service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the same services they already render.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, January 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert

Secretary



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION

January 28, 2016

9:30 a.m.

RE: Inpatient Hospital Services – Non-Rural, Non-State Hospitals
Reinstatement of Additional Payments for Hemophilia Blood Products
Docket # 01282016-2
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on January 28, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to read "Kaylin A. Haynes".

Kaylin A. Haynes
Medicaid Policy and
Compliance Section

01/28/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Inpatient Hospital Services – Non-Rural, Non-State Hospitals – Reinstatement of Additional Payments for Hemophilia Blood Products

Date – January 28, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Yolanda Ellis	628 North Fourth St. Baton Rouge, LA 70802	(225) 342-5042	DHH Policy and Compliance
2. Kaylin Haynes	11	225-342-9319	11
3. Terry Cooper	628 N. 4th St. BR 70802	225-342-5780	DHH-HIS
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Department of Health and Hospitals
Office of the Secretary

February 5, 2016

MEMORANDUM

TO: The Honorable John Bel Edwards, Governor, State of Louisiana
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The Honorable Frank A. Hoffman, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary 

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Inpatient Hospital Services - Public-Private Partnerships - Supplemental Payments.

The Department published a Notice of Intent on this proposed Rule in the December 20, 2015 issue of the *Louisiana Register* (Volume 41, Number 12). A public hearing was held on January 28, 2016 at which only Department of Health and Hospitals staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the March 20, 2016 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/RKA

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services
Public-Private Partnerships
Supplemental Payments
(LAC 50:V.Chapter 17)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 17 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state (private) owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-provider partnership initiative.

The department submitted the required corresponding Medicaid State Plan Amendment to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services

(CMS) for review and approval as a result of these revisions to the reimbursement methodology governing inpatient hospital services. During negotiations with CMS to secure approval, additional revisions were made. This proposed Rule is being promulgated to continue the provisions of the November 1, 2012 Emergency Rule, and to revise these provisions to ensure they are consistent with the approved corresponding State Plan Amendment.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services

Chapter 17. Public-Private Partnerships

§1701. Baton Rouge Area Hospitals

A. Qualifying Criteria. Effective for dates of service on or after April 15, 2013, the department shall provide supplemental Medicaid payments for inpatient hospital services rendered by non-state privately owned hospitals in the Baton Rouge Area that meet the following conditions.

1. The hospital must be a non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

B. Reimbursement Methodology

1. Payments shall be made quarterly based on the annual upper payment limit calculation per state fiscal year.

2. Payments shall not exceed the allowable Medicaid charge differential. The Medicaid inpatient charge differential is the Medicaid inpatient charges less the Medicaid inpatient payments (which includes both the base payments and supplemental payments).

a. The payments will be made in four equal quarterly payments based on 100 percent of the estimated charge differential for the state fiscal year.

3. The qualifying hospital will provide quarterly reports to the department that will demonstrate that, upon implementation, the annual Medicaid inpatient payments do not exceed the annual Medicaid inpatient charges per 42 CFR 447.271. The department will verify the Medicaid claims data of these interim reports using the state's MMIS system. When the Department receives the annual cost report as filed, the supplemental calculations will be reconciled to the cost report.

4. If there is additional cap room, an adjustment payment will be made to assure that supplemental payments are the actual charge differential. The supplemental payments will also be reconciled to the final cost report.

5. The annual supplemental payments will not exceed the allowable Medicaid inpatient charge differential per 42 CFR 447.271, and the maximum inpatient Medicaid payments shall not exceed the upper limit per 42 CFR 447.272.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 as it will enhance recipient access to hospital services by ensuring sufficient provider participation in the Hospital Program.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it will enhance recipient access

to hospital services by ensuring sufficient provider participation in the Hospital Program.

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, January 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert

Secretary



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
January 28, 2016
9:30 a.m.

RE: Inpatient Hospital Services – Public-Private Partnerships
Supplemental Payments
Docket # 01282016-3
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on January 28, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to read "Kaylin A. Haynes", written over a horizontal line.

Kaylin A. Haynes
Medicaid Policy and
Compliance Section

01/28/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Inpatient Hospital Services – Public-Private Partnerships Supplemental Payments

Date – January 28, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Yolanda M. Ellis	628 North Fourth St. Baton Rouge, LA 70802	(225) 342-5042	DHH Policy and Compliance
2.			
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State of Louisiana
Department of Health and Hospitals
Office of the Secretary

February 5, 2016

MEMORANDUM

TO: The Honorable John Bel Edwards, Governor, State of Louisiana
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The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Outpatient Hospital Services - Public-Private Partnerships - Supplemental Payments.

The Department published a Notice of Intent on this proposed Rule in the December 20, 2015 issue of the *Louisiana Register* (Volume 41, Number 12). A public hearing was held on January 28, 2016 at which only Department of Health and Hospitals staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the March 20, 2016 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

KHK/WJR/RKA

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Outpatient Hospital Services
Public-Private Partnerships
Supplemental Payments
(LAC 50:V.Chapter 67)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 67 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing outpatient hospital services to establish supplemental Medicaid payments to non-state owned (private) hospitals in order to encourage them to take over the operation and management of state-owned hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-private partnership initiative. The department promulgated an Emergency Rule which amended the provisions of the November 1, 2012 Emergency Rule to revise the

reimbursement methodology in order to correct the federal citation (*Louisiana Register*, Volume 39, Number 3).

The department submitted the required corresponding Medicaid State Plan Amendment to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), for review and approval as a result of these revisions to the reimbursement methodology governing outpatient hospital services. During negotiations with CMS to secure approval, additional revisions were made. This proposed Rule is being promulgated to continue the provisions of the March 2, 2013 Emergency Rule, and to revise these provisions to ensure they are consistent with the approved corresponding State Plan Amendment.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 67. Public-Private Partnerships

§6701. Baton Rouge Area Hospitals

A. Qualifying Criteria. Effective for dates of service on or after April 15, 2013, the department shall provide supplemental Medicaid payments for outpatient hospital services rendered by non-state privately owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of outpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

B. Reimbursement Methodology

1. Payments shall be made quarterly based on the annual upper payment limit calculation per state fiscal year.

2. For SFY 2013, this payment shall be \$2,109,589, and for each state fiscal year starting with SFY 2014, this payment shall be \$10,000,000, not to exceed the upper payment limits pursuant to 42 CFR 447.321.

3. Maximum payments shall not exceed the upper payment limit pursuant to 42 CFR 447.321.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 as it will enhance recipient access to hospital services by ensuring sufficient provider participation in the Hospital Program.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it will enhance recipient access to hospital services by ensuring sufficient provider participation in the Hospital Program.

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, January 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert

Secretary



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION

January 28, 2016

9:30 a.m.

RE: Outpatient Hospital Services – Public-Private Partnerships
Supplemental Payments
Docket # 01282016-4
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on January 28, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

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Kaylin A. Haynes
Medicaid Policy and
Compliance Section

01/28/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Outpatient Hospital Services – Public-Private Partnerships Supplemental Payments

Date – January 28, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Yolanda M. Ellis	628 North Fourth St. Baton Rouge, LA 70802	(225) 342-5042	DHH Policy and Compliance
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